

116TH CONGRESS
1ST SESSION

H. R. 4863

AN ACT

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Export
3 Finance Agency Act of 2019”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Renaming of the Export-Import Bank of the United States.
- Sec. 4. Authorization period.
- Sec. 5. Aggregate loan, guarantee, and insurance authority.
- Sec. 6. Office of Minority and Women Inclusion.
- Sec. 7. Support for United States territories.
- Sec. 8. Alternative procedures during quorum lapse.
- Sec. 9. Strengthening support for United States small businesses.
- Sec. 10. Enhancing flexibility to respond to predatory export financing by
China.
- Sec. 11. Restriction on financing for certain entities.
- Sec. 12. Prohibitions on financing for certain persons involved in sanctionable
activities.
- Sec. 13. Promoting renewable energy exports, environmental and social stand-
ards, and accountability.
- Sec. 14. Reinsurance program.
- Sec. 15. Information technology systems.
- Sec. 16. Administratively determined pay.
- Sec. 17. Authority of the United States Export Finance Agency to use 3 per-
cent of its profits for administrative expenses.
- Sec. 18. GAO report on the effect of Agency closure on businesses that use
Agency services.

6 **SEC. 3. RENAMING OF THE EXPORT-IMPORT BANK OF THE**
7 **UNITED STATES.**

8 (a) IN GENERAL.—The Export-Import Bank of the
9 United States is hereby redesignated as the United States
10 Export Finance Agency.

11 (b) REFERENCES.—Any reference to the Export-Im-
12 port Bank of the United States in any law, rule, regula-
13 tion, certificate, directive, instruction, or other official
14 paper in force on the date of the enactment of this Act

1 is deemed a reference to the United States Export Finance
2 Agency.

3 **SEC. 4. AUTHORIZATION PERIOD.**

4 Section 7 of the Export-Import Bank Act of 1945
5 (12 U.S.C. 635f) is amended by striking “2019” and in-
6 serting “2029”.

7 **SEC. 5. AGGREGATE LOAN, GUARANTEE, AND INSURANCE**
8 **AUTHORITY.**

9 Section 6(a)(2) of the Export-Import Bank Act of
10 1945 (12 U.S.C. 635e(a)(2)) is amended to read as fol-
11 lows:

12 “(2) APPLICABLE AMOUNT DEFINED.—In this
13 subsection, the term ‘applicable amount’ means—

14 “(A) \$145,000,000,000 for fiscal year
15 2020;

16 “(B) \$150,000,000,000 for fiscal year
17 2021;

18 “(C) \$155,000,000,000 for fiscal year
19 2022;

20 “(D) \$160,000,000,000 for fiscal year
21 2023;

22 “(E) \$165,000,000,000 for fiscal year
23 2024;

24 “(F) \$170,000,000,000 for fiscal year
25 2025; and

1 “(G) \$175,000,000,000 for each of fiscal
2 years 2026 through 2029.”.

3 **SEC. 6. OFFICE OF MINORITY AND WOMEN INCLUSION.**

4 (a) IN GENERAL.—Section 3(i) of the Export-Import
5 Bank Act of 1945 (12 U.S.C. 635a(i)) is amended to read
6 as follows:

7 “(i) OFFICE OF MINORITY AND WOMEN INCLU-
8 SION.—

9 “(1) ESTABLISHMENT.—The Agency shall es-
10 tablish an Office of Minority and Women Inclusion
11 which shall be responsible for carrying out this sub-
12 section and all matters relating to diversity in man-
13 agement, employment, and business activities in ac-
14 cordance with such standards and requirements as
15 the Director of the Office shall establish.

16 “(2) TRANSFER OF RESPONSIBILITIES.—The
17 Agency shall ensure that, to the extent that the re-
18 sponsibilities described in paragraph (1) (or com-
19 parable responsibilities) were, as of the date of the
20 enactment of this subsection, performed by another
21 office of the Agency, the responsibilities shall be
22 transferred to the Office.

23 “(3) DUTIES WITH RESPECT TO CIVIL RIGHTS
24 LAWS.—The responsibilities described in paragraph
25 (1) shall not include enforcement of statutes, regula-

1 tions, or executive orders pertaining to civil rights,
2 except that the Director of the Office shall coordi-
3 nate with the President of the Agency, or the des-
4 ignee of the President of the Agency, regarding the
5 design and implementation of any remedies resulting
6 from violations of the statutes, regulations, or execu-
7 tive orders.

8 “(4) TRAINING.—The Agency shall make avail-
9 able to its employees appropriate inclusion and di-
10 versity training, not less frequently than every 2
11 years, to ensure employees have an understanding of
12 the specific challenges facing minority- and women-
13 owned businesses.

14 “(5) DIRECTOR.—

15 “(A) IN GENERAL.—The Director of the
16 Office shall be appointed by, and shall report
17 directly to, the President of the Agency. The
18 position of Director of the Office shall be a ca-
19 reer reserved position in the Senior Executive
20 Service, as that position is defined in section
21 3132 of title 5, United States Code, or an
22 equivalent designation.

23 “(B) DUTIES.—The Director shall—

24 “(i) develop standards for equal em-
25 ployment opportunity and diversity in race,

1 ethnicity, gender, sexual orientation, and
2 gender identity of the workforce and senior
3 management of the Agency;

4 “(ii) develop standards for increased
5 participation of minority-owned and
6 women-owned businesses in the programs
7 and contracts of the Agency, including
8 standards for coordinating technical assist-
9 ance to the businesses; and

10 “(iii) enhance the outreach activities
11 of the Agency with respect to, and increase
12 the total amount of loans, guarantees, and
13 insurance provided by the Agency to sup-
14 port exports by socially and economically
15 disadvantaged small business concerns (as
16 defined in section 8(a)(4) of the Small
17 Business Act) and small business concerns
18 owned by women.

19 “(C) OTHER DUTIES.—The Director shall
20 advise the President of the Agency on the im-
21 pact of the policies of the Agency on minority-
22 owned and women-owned businesses.

23 “(6) INCLUSION IN ALL LEVELS OF BUSINESS
24 ACTIVITIES.—

1 “(A) CONTRACTS.—The Director of the
2 Office shall develop and implement standards
3 and procedures to ensure, to the maximum ex-
4 tent possible, the inclusion and utilization of
5 minorities (as defined in section 1204(e) of the
6 Financial Institutions Reform, Recovery, and
7 Enforcement Act of 1989 (12 U.S.C. 1811
8 note), which definition is deemed, for purposes
9 of this subparagraph, to include American Indi-
10 ans, Native Hawaiians (as defined in section
11 103 of the Native American Languages Act (25
12 U.S.C. 2902)), and Alaska Natives (defined as
13 a member of any Indian tribe (as defined in
14 section 4 of the Indian Self-Determination and
15 Education Assistance Act (25 U.S.C. 5304))
16 that is based in the State of Alaska)) and
17 women, and minority- and women-owned busi-
18 nesses (as such terms are defined in section
19 21A(r)(4) of the Federal Home Loan Bank Act
20 (12 U.S.C. 1441a(r)(4)) in all business and ac-
21 tivities of the Agency at all levels, including in
22 procurement, insurance, and all types of con-
23 tracts. The processes established by the Agency
24 for review and evaluation for contract proposals
25 and to hire service providers shall include a

1 component that gives consideration to the diver-
2 sity of the applicant.

3 “(B) APPLICABILITY.—This paragraph
4 shall apply to all contracts for services of any
5 kind, including all contracts for all business and
6 activities of the Agency, at all levels.

7 “(C) OUTREACH.—The Agency shall estab-
8 lish a minority outreach program to ensure the
9 inclusion (to the maximum extent practicable)
10 of contracts entered into with the enterprises of
11 minorities and women and businesses owned by
12 minorities and women, including financial insti-
13 tutions, investment banking firms, under-
14 writers, accountants, brokers, and providers of
15 legal services.

16 “(7) DIVERSITY IN AGENCY WORKFORCE.—The
17 Agency shall take affirmative steps to seek diversity
18 in its workforce at all levels of the Agency consistent
19 with the demographic diversity of the United States,
20 in a manner consistent with applicable law, includ-
21 ing—

22 “(A) to the extent the Agency engages in
23 recruitment efforts to fill vacancies—

24 “(i) recruiting at historically Black
25 colleges and universities, Hispanic-serving

1 institutions, Asian American- and Native
2 American Pacific Islander-serving institu-
3 tions, Tribal colleges and universities,
4 women’s colleges, community colleges, and
5 colleges that typically serve majority mi-
6 nority populations; and

7 “(ii) recruiting at job fairs in urban
8 communities, and placing employment ad-
9 vertisements in print and digital media ori-
10 ented toward women and people of color;

11 “(B) partnering with organizations that
12 are focused on developing opportunities for mi-
13 norities and women to place talented young mi-
14 norities and women in industry internships (in-
15 cluding paid internships), summer employment,
16 and full-time positions; and

17 “(C) by use of any other mass media com-
18 munications that the Director of the Office de-
19 termines necessary.”.

20 (b) INCLUSION IN ANNUAL REPORT.—Section 8 of
21 such Act (12 U.S.C. 635g) is amended by adding at the
22 end the following:

23 “(1) OFFICE OF MINORITY AND WOMEN INCLU-
24 SION.—

1 “(1) IN GENERAL.—The Agency shall include in
2 its annual report to the Congress under subsection
3 (a) a report from the Office of Minority and Women
4 Inclusion regarding the actions taken by the Agency
5 and the Office pursuant to section 3(i), which shall
6 include—

7 “(A) a statement of the total amounts paid
8 by the Agency to contractors since the most re-
9 cent report under this subsection;

10 “(B) the percentage of the amounts de-
11 scribed in subparagraph (A) that were paid to
12 contractors as described in section 3(i)(5)(A);

13 “(C) the successes achieved and challenges
14 faced by the Agency in operating minority and
15 women outreach programs;

16 “(D) a description of the progress made by
17 the Agency in supporting exports by minority-
18 owned small business concerns and the progress
19 made by the Agency in supporting small busi-
20 ness concerns owned by women, including esti-
21 mates of the amounts made available to finance
22 exports directly by both categories of small
23 business concerns, a comparison of these
24 amounts with the amounts made available to all
25 small business concerns, and a comparison of

1 such amounts with the amounts so made avail-
2 able during the 2 preceding years;

3 “(E) the challenges the Agency may face
4 in hiring qualified minority and women employ-
5 ees and contracting with qualified minority-
6 owned and women-owned businesses; and

7 “(F) any other information, findings, con-
8 clusions, and recommendations for legislative or
9 Agency action, as the Director of the Office
10 deems appropriate.

11 “(2) DEFINITIONS.—In this subsection:

12 “(A) MINORITY-OWNED SMALL BUSINESS
13 CONCERN.—The term ‘minority-owned small
14 business concern’ has the meaning given the
15 term ‘socially and economically disadvantaged
16 small business concern’ under section 8(a)(4) of
17 the Small Business Act.

18 “(B) SMALL BUSINESS CONCERN.—The
19 term ‘small business concern’ has the meaning
20 given that term under section 3(a) of the Small
21 Business Act.”.

22 (c) CONFORMING AMENDMENT.—Section 8(f) of the
23 Export-Import Bank Act of 1945 (12 U.S.C. 635g(f)) is
24 amended—

25 (1) by striking paragraph (4); and

1 (2) by redesignating paragraphs (5) through
2 (8) as paragraphs (4) through (7), respectively.

3 (d) **ADDITIONAL ADVISORY COMMITTEE MEM-**
4 **BERS.**—Section 3(d) of such Act (12 U.S.C. 635a(d)) is
5 amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by striking “17”
8 and inserting “19”; and

9 (B) in subparagraph (B), by inserting
10 “higher education,” before “State”; and

11 (2) in paragraph (2), by adding at the end the
12 following:

13 “(D) One member appointed to the Advisory Com-
14 mittee shall be representative of 4-year institutions of
15 higher education.

16 “(E) One member appointed to the Advisory Com-
17 mittee shall be representative of community colleges.”.

18 **SEC. 7. SUPPORT FOR UNITED STATES TERRITORIES.**

19 (a) **CREATION OF THE OFFICE OF TERRITORIAL EX-**
20 **PORTING.**—Section 3 of the Export-Import Bank Act of
21 1945 (12 U.S.C. 635a) is amended by adding at the end
22 the following:

23 “(n) **OFFICE OF TERRITORIAL EXPORTING.**—

1 “(1) IN GENERAL.—The President of the Agen-
2 cy shall establish an Office of Territorial Exporting,
3 the functions of which shall be to—

4 “(A) promote the export of goods and serv-
5 ices from the territories;

6 “(B) conduct outreach, education, and dis-
7 seminate information concerning export oppor-
8 tunities and the availability of Agency support
9 for such activities; and

10 “(C) increase the total amount of loans,
11 guarantees, and insurance provided by the
12 Agency benefitting the territories.

13 “(2) STAFF.—The President of the Agency
14 shall hire such staff as may be necessary to perform
15 the functions of the Office, including—

16 “(A) at least one staffer responsible for
17 liaising with Puerto Rico and the United States
18 Virgin Islands; and

19 “(B) at least one staffer responsible for
20 liaising with the United States territories of
21 Guam, the Commonwealth of the Northern
22 Mariana Islands, and American Samoa.

23 “(3) DEFINITION OF TERRITORY.—In this Act,
24 the term ‘territory’ means the Commonwealth of
25 Puerto Rico, the United States Virgin Islands,

1 Guam, the Commonwealth of the Northern Mariana
2 Islands, and American Samoa.”.

3 (b) ANNUAL REPORT.—Section 8 of such Act (12
4 U.S.C. 635g), as amended by section 6(b) of this Act, is
5 amended by adding at the end the following:

6 “(m) REPORT ON ACTIVITIES IN THE TERRI-
7 TORIES.—The Agency shall include in its annual report
8 to Congress under subsection (a) a report on the steps
9 taken by the Agency in the period covered by the report
10 to increase—

11 “(1) awareness of the Agency and its services
12 in the territories; and

13 “(2) the provision of Agency support to export
14 businesses in the territories.

15 “(n) REPORT ON CONSULTATIONS WITH POTEN-
16 Tially IMPACTED COMMUNITIES.—The Agency shall in-
17 clude in its annual report to Congress under subsection
18 (a) of this section a report on the steps taken by the Agen-
19 cy to consult with affected communities, including affected
20 workers, pursuant to section 11(a)(2).”.

21 **SEC. 8. ALTERNATIVE PROCEDURES DURING QUORUM**
22 **LAPSE.**

23 (a) IN GENERAL.—Section 3(e)(6) of the Export-Im-
24 port Bank Act of 1945 (12 U.S.C. 635a(e)(6)) is amend-
25 ed—

1 (1) by inserting “(A)” after “(6)”; and

2 (2) by adding at the end the following:

3 “(B)(i) If there is an insufficient number of directors
4 to constitute a quorum under subparagraph (A) for 90
5 consecutive days during the term of a President of the
6 United States, a temporary Board, consisting of the fol-
7 lowing members, shall act in the stead of the Board of
8 Directors:

9 “(I) The United States Trade Representative.

10 “(II) The Secretary of the Treasury.

11 “(III) The Secretary of Commerce.

12 “(IV) The members of the Board of Directors.

13 “(ii) If, at a meeting of the temporary Board—

14 “(I) a member referred to in clause (i)(IV) is
15 present, the meeting shall be chaired by such a
16 member, consistent with Agency bylaws; or

17 “(II) no such member is present, the meeting
18 shall be chaired by the United States Trade Rep-
19 resentative.

20 “(iii) A member described in subclause (I), (II), or
21 (III) of clause (i) may delegate the authority of the mem-
22 ber to vote on whether to authorize a transaction, whose
23 value does not exceed \$100,000,000, to—

1 “(I) if the member is the United States Trade
2 Representative, the Deputy United States Trade
3 Representative; or

4 “(II) if the member is referred to in such sub-
5 clause (II) or (III), the Deputy Secretary of the de-
6 partment referred to in the subclause.

7 “(iv) If the temporary Board consists of members of
8 only one political party, the President of the United States
9 shall, to the extent practicable, appoint to the temporary
10 Board a qualified member of a different political party
11 who occupies a position requiring nomination by the Presi-
12 dent, by and with the consent of the Senate.

13 “(v) The temporary board may not change or amend
14 Agency policies, procedures, bylaws, or guidelines.

15 “(vi) The temporary Board shall expire at the end
16 of the term of the President of the United States in office
17 at the time the temporary Board was constituted or upon
18 restoration of a quorum of the Board of Directors as de-
19 fined in subparagraph (A).

20 “(vii) With respect to a transaction that equals or
21 exceeds \$100,000,000, the Chairperson of the temporary
22 Board shall ensure that the Agency complies with section
23 2(b)(3).”.

24 (b) TERMINATION.—The amendments made by sub-
25 section (a) shall have no force or effect after the 10-year

1 period that begins with the date of the enactment of this
2 Act.

3 **SEC. 9. STRENGTHENING SUPPORT FOR UNITED STATES**
4 **SMALL BUSINESSES.**

5 (a) **SMALL BUSINESS POLICY.**—Section 2(b)(1) of
6 the Export-Import Bank Act of 1945 (12 U.S.C.
7 635(b)(1)) is amended by striking subparagraph (E)(i)(I)
8 and inserting the following:

9 “(E)(i)(I) It is further the policy of the United States
10 to encourage the participation of small business (including
11 women-owned businesses, minority-owned businesses, vet-
12 eran-owned businesses, businesses owned by persons with
13 disabilities, and businesses in rural areas) and start-up
14 businesses in international commerce, and to educate such
15 businesses about how to export goods using the United
16 States Export Finance Agency.”.

17 (b) **OUTREACH.**—

18 (1) **PLAN.**—Within 120 days after the date of
19 the enactment of this Act, the United States Export
20 Finance Agency shall prepare and submit to the
21 Committee on Financial Services of the House of
22 Representatives and the Committee on Banking,
23 Housing, and Urban Affairs of the Senate a com-
24 prehensive outreach plan to ensure that small busi-
25 ness owners are aware of the financing options avail-

1 able to them through the Agency. The plan shall in-
2 clude—

3 (A) input from the Small Business Admin-
4 istration and statewide small business coalitions
5 with operations in rural, urban, and suburban
6 regions;

7 (B) an emphasis on outreach to businesses
8 owned by women, minorities, veterans, persons
9 with disabilities, and individuals self-identifying
10 as lesbian, gay, bisexual, transgender, or queer;

11 (C) an emphasis on outreach to businesses
12 that export goods and services that are pro-
13 duced by Indian tribes and that are made, as-
14 sembled, or otherwise derived on or from an In-
15 dian tribe's Indian land (as defined in section
16 2601(2) of the Energy Policy Act of 1992 (25
17 U.S.C. 2501(2));

18 (D) a proposed budget for carrying out the
19 plan during fiscal years 2020 through 2029,
20 that provides for the spending of at least
21 \$1,000,000 annually for outreach to small busi-
22 nesses; and

23 (E) an emphasis on outreach to small busi-
24 nesses in sectors impacted by retaliatory tariffs.

1 (2) REPORT ON ACTIVITIES IN ECONOMICALLY
2 DISADVANTAGED REGIONS.—Section 8 of such Act
3 (12 U.S.C. 635g), as amended by sections 6(b) and
4 7(b) of this Act, is amended by adding at the end
5 the following:

6 “(n) REPORT ON ACTIVITIES IN ECONOMICALLY DIS-
7 ADVANTAGED REGIONS.—

8 “(1) IN GENERAL.—The Agency shall include in
9 its annual report to Congress under subsection (a)
10 a report on the steps taken by the Agency in the pe-
11 riod covered by the report to increase—

12 “(A) awareness of the Agency and its serv-
13 ices in economically disadvantaged regions; and

14 “(B) the provision of Agency support to
15 export businesses in economically disadvantaged
16 regions.

17 “(2) DEFINITION.—In paragraph (1), the term
18 ‘economically disadvantaged region’ means a county
19 or equivalent division of local government of a State
20 in which, according to the most recently available
21 data from the Bureau of the Census, 20 percent or
22 more of the residents have an annual income that is
23 at or below the poverty level.”.

1 (3) IMPLEMENTATION.—Section 2(b)(1)(E) of
2 such Act (12 U.S.C. 635(b)(1)(E)) is amended by
3 adding at the end the following:

4 “(xi) After consultation with the Committee on Fi-
5 nancial Services of the House of Representatives and the
6 Committee on Banking, Housing, and Urban Affairs of
7 the Senate, the Agency shall implement the outreach plan
8 referred to in section 9(b)(1) of the United States Export
9 Finance Agency Act of 2019.”.

10 (c) EXCLUSION OF UNUTILIZED INSURANCE AU-
11 THORITY IN CALCULATING SMALL BUSINESS THRESH-
12 OLD.—Section 2(b)(1)(E)(v) of such Act (12 U.S.C.
13 635(b)(1)(E)(v)) is amended by adding at the end the fol-
14 lowing: “For the purpose of calculating the amounts of
15 authority required under this clause, the Agency shall,
16 with respect to insurance, exclude unutilized authoriza-
17 tions that terminated during the fiscal year.”.

18 (d) INCREASE IN SMALL BUSINESS THRESHOLD.—

19 (1) IN GENERAL.—Section 2(b)(1)(E)(v) of
20 such Act (12 U.S.C. 635(b)(1)(E)(v)) is amended by
21 striking “25” and inserting “30”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect on October 1,
24 2028.

1 (e) REPORT ON ACTIVITIES SUPPORTING INDIAN
2 TRIBES.—Section 8 of such Act (12 U.S.C. 635g), as
3 amended by the preceding provisions of this Act, is amend-
4 ed by adding at the end the following:

5 “(n) REPORT ON ACTIVITIES SUPPORTING INDIAN
6 TRIBES.—The Agency shall include in its annual report
7 to Congress under subsection (a) a report on the steps
8 taken by the Agency in the period covered by the report
9 to increase—

10 “(1) awareness of the Agency and its services
11 available to Indian tribes; and

12 “(2) the provision of Agency support to tribal
13 export businesses.”.

14 **SEC. 10. ENHANCING FLEXIBILITY TO RESPOND TO PREDA-**
15 **TORY EXPORT FINANCING BY CHINA.**

16 (a) DEEMING RULE UNDER TIED AID CREDIT PRO-
17 GRAM.—Section 10(b)(5)(B)(i)(III) of the Export-Import
18 Bank Act of 1945 (12 U.S.C. 635i–3(b)(5)(B)(i)(III)) is
19 amended by adding at the end the following new sentence:
20 “The requirement that there be credible evidence of a his-
21 tory of a foreign export credit agency making offers not
22 subject to the Arrangement is deemed met in the case of
23 exports likely to be supported by official financing from
24 the People’s Republic of China, unless the Secretary of
25 the Treasury has reported to the Committee on Financial

1 Services of the House of Representatives and the Com-
2 mittee on Banking, Housing, and Urban Affairs of the
3 Senate that China is in substantial compliance with the
4 Arrangement.”.

5 (b) COLLABORATION WITH USDA ON EXPORT FI-
6 NANCING PROGRAMS.—Section 13(1)(A) of such Act (12
7 U.S.C. 635i–7(1)(A)) is amended by inserting “, the De-
8 partment of Agriculture,” before “and other Federal agen-
9 cies”.

10 **SEC. 11. RESTRICTION ON FINANCING FOR CERTAIN ENTI-**
11 **TIES.**

12 Section 2 of the Export-Import Bank Act of 1945
13 (12 U.S.C. 635) is amended by adding at the end the fol-
14 lowing:

15 “(1) RESTRICTION ON FINANCING FOR CERTAIN EN-
16 TITIES.—

17 “(1) IN GENERAL.—Beginning on the date that
18 is 180 days after the date of the enactment of this
19 subsection, the Board of Directors may not approve
20 a transaction that is subject to approval by the
21 Board with respect to the provision by the Agency
22 of any guarantee, insurance, or extension of credit,
23 or the participation by the Agency in any extension
24 of credit for which the end user, obligor, or lender
25 is described in paragraph (2).

1 “(2) PROHIBITED END USER, OBLIGOR, OR
2 LENDER.—An end user, obligor, or lender is de-
3 scribed in this paragraph if the end user, obligor, or
4 lender is known to the Agency to be:

5 “(A) The People’s Liberation Army of the
6 People’s Republic of China.

7 “(B) The Ministry of State Security of the
8 People’s Republic of China.

9 “(C) Included on the Denied Persons List
10 or the Entity List maintained by the Bureau of
11 Industry and Security of the Department of
12 Commerce.

13 “(D) Included on the Arms Export Control
14 Act debarred list maintained by the Directorate
15 of Defense Trade Controls of the Department
16 of State.

17 “(E) Any person who has paid a criminal
18 fine or penalty pursuant to a conviction or reso-
19 lution or settlement agreement with the Depart-
20 ment of Justice for a violation of the Foreign
21 Corrupt Practices Act in the preceding 3 years.

22 “(F) A person who, in the preceding 3
23 years, appeared on the Annual Intellectual
24 Property Report to Congress by the Intellectual
25 Property Enforcement Coordinator in the Exec-

1 utive Office of the President, if the person was
2 convicted in any court.

3 “(3) DEFINITIONS.—In this subsection:

4 “(A) PERSON.—The term ‘person’ means
5 an individual or entity.

6 “(B) ENTITY.—The term ‘entity’ means a
7 partnership, association, trust, joint venture,
8 corporation, group, subgroup, or other organi-
9 zation.”.

10 **SEC. 12. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
11 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
12 **TIES.**

13 Section 2 of the Export-Import Bank Act of 1945
14 (12 U.S.C. 635), as amended by section 11 of this Act,
15 is amended by adding at the end the following:

16 “(m) PROHIBITIONS ON FINANCING FOR CERTAIN
17 PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES.—

18 “(1) IN GENERAL.—Beginning on the date that
19 is 180 days after the date of the enactment of this
20 subsection, the Board of Directors of the Agency
21 may not approve any transaction that is subject to
22 approval by the Board with respect to the provision
23 by the Agency of any guarantee, insurance, or exten-
24 sion of credit, or the participation by the Agency in
25 any extension of credit, to a person in connection

1 with the exportation of any good or service unless
2 the person provides the certification described in
3 paragraph (2).

4 “(2) CERTIFICATION DESCRIBED.—The certifi-
5 cation described in this paragraph is a certification
6 by a person who is an end user, obligor, or lender
7 that neither the person nor any other person owned
8 or controlled by the person engages in any activity
9 in contravention of any United States law, regula-
10 tion, or order applicable to the person concerning—

11 “(A) trade and economic sanctions, includ-
12 ing an embargo;

13 “(B) the freezing or blocking of assets of
14 designated persons;

15 “(C) sanctions relating to serious viola-
16 tions of human rights or free speech, including
17 any sanctions—

18 “(i) imposed under the Global
19 Magnitsky Human Rights Accountability
20 Act;

21 “(ii) related to the efforts to the Chi-
22 nese government to limit or punish dem-
23 onstrations in Hong Kong;

1 “(iii) related to the political repression
2 or detention of religious and ethnic minori-
3 ties in China or Burma; or

4 “(iv) related to the gross violation of
5 internationally recognized human rights
6 (as defined in section 502B of the Foreign
7 Assistance Act of 1961) in China;

8 “(D) sanctions relating to the illegal traf-
9 ficking of synthetic opioids, including any sanc-
10 tions imposed pursuant to the Foreign Nar-
11 cotics Kingpin Designation Act;

12 “(E) sanctions relating to human rights
13 abuses, including engaging in human traf-
14 ficking, including sex trafficking, and any sanc-
15 tions imposed under Executive Order No.
16 13581 (Blocking Property of Transnational
17 Criminal Organizations); or

18 “(F) other restrictions on exports, imports,
19 investment, payments, or other transactions
20 targeted at particular persons or countries.

21 “(3) CERTIFICATION REQUIREMENTS.—The
22 certification described in paragraph (2) shall be
23 made after reasonable due diligence and based on
24 best knowledge and belief.”.

1 **SEC. 13. PROMOTING RENEWABLE ENERGY EXPORTS, ENVI-**
2 **RONMENTAL AND SOCIAL STANDARDS, AND**
3 **ACCOUNTABILITY.**

4 (a) OFFICE OF FINANCING FOR RENEWABLE EN-
5 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE EX-
6 PORTS.—Section 2(b)(1)(C) of the Export-Import Bank
7 Act of 1945 (12 U.S.C. 635(b)(1)(C)) is amended to read
8 as follows:

9 “(C) OFFICE OF FINANCING FOR RENEWABLE EN-
10 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE.—
11 The President of the Agency shall establish an office
12 whose functions shall be to promote the export of goods
13 and services to be used in the development, production,
14 and distribution of renewable energy resources, and energy
15 efficiency (including battery electric vehicles, batteries for
16 electric vehicles, and electric vehicle charging infrastruc-
17 ture) and energy storage technologies, and disseminate in-
18 formation concerning export opportunities and the avail-
19 ability of Agency support for such activities, to increase
20 the total amount of loans, guarantees, and insurance pro-
21 vided by the Agency to support exports related to renew-
22 able energy, energy efficiency (including battery electric
23 vehicles, batteries for electric vehicles, and electric vehicle
24 charging infrastructure), and energy storage.”.

1 (b) ENVIRONMENTAL POLICY AND PROCEDURES.—
2 Section 11(a) of such Act (12 U.S.C. 635i–5(a)) is amend-
3 ed—

4 (1) in paragraph (1)—

5 (A) in the second sentence, by inserting “,
6 including to potentially impacted communities
7 in the country in which the activity will be car-
8 ried out, at least 60 days before the date of the
9 vote,” before “and supplemental”;

10 (B) by inserting after the second sentence
11 the following: “The procedures shall include a
12 requirement for an analysis of the environ-
13 mental and social impacts, including worker im-
14 pacts and anticipated health impacts and costs,
15 of the proposed activity and of alternatives to
16 the proposed activity, including mitigation
17 measures, where appropriate.”; and

18 (C) in the third sentence, by striking “The
19 preceding sentence” and inserting “This para-
20 graph”;

21 (2) by redesignating paragraph (2) as para-
22 graph (7) and inserting after paragraph (1) the fol-
23 lowing:

24 “(2) CONSULTATIONS WITH POTENTIALLY IM-
25 PACTED COMMUNITIES.—In any credit or common

1 terms agreements to which the Agency is a party re-
2 lating to a transaction described in paragraph (1),
3 the Agency shall include a provision to ensure that
4 robust consultations with potentially impacted com-
5 munities, including affected workers, in the country
6 in which the activity will be carried out have been
7 and will continue to be carried out throughout the
8 project cycle.

9 “(3) ENVIRONMENTAL AND SOCIAL DUE DILI-
10 GENCE PROCEDURES AND GUIDELINES REVIEW.—By
11 the end of 2020 and once at the end of each subse-
12 quent 3-year period, the Board of Directors of the
13 Agency shall complete a review of the Environmental
14 and Social Due Diligence Procedures and Guidelines
15 ensuring that the procedures and guidelines incor-
16 porate requirements for project consideration that
17 are consistent to limit greenhouse gas emissions and,
18 to the maximum extent possible, to affirm that the
19 Board operates consistently with the multilateral en-
20 vironmental agreements to which the United States
21 is a party that are directly related to transactions in
22 which the Agency is involved.

23 “(4) The Agency shall operate consistently with
24 Annex VI of the Arrangement on Officially Sup-
25 ported Export Credits, as adopted by the

1 Organisation for Economic Co-operation and Devel-
2 opment as of January 2019.

3 “(5) The Agency shall make publicly available
4 the estimated amounts of CO₂ emissions expected to
5 be produced from pending projects that the Agency
6 has designated as Category A and B projects and
7 work with other export credit agencies to encourage
8 them to do the same.

9 “(A) The Agency shall report CO₂ emis-
10 sions associated with projects that the Agency
11 has designated as Category A and B fossil fuel
12 projects in its annual report by product cat-
13 egories.

14 “(B) The Agency shall advocate within the
15 OECD and other multilateral fora for the full
16 reporting of CO₂ emissions associated with ap-
17 propriate energy and non-energy projects in-
18 cluding manufacturing and agriculture.

19 “(C) The Agency shall undertake periodic
20 reviews with stakeholders to ensure that the
21 Agency employs the most appropriate method-
22 ology of estimating and tracking the CO₂ emis-
23 sions from Category A and B projects the
24 Agency supports.

1 “(6) The Agency shall develop and maintain
2 measures to provide increased financing support for
3 evolving technologies that reduce CO₂ emissions.

4 “(A) The Agency shall develop and main-
5 tain measures to encourage foreign buyers to
6 seek available, commercially viable technology to
7 reduce the CO₂ footprint of projects.

8 “(B) The Agency shall develop and main-
9 tain initiatives to finance aspects of project de-
10 velopment that reduce or mitigate CO₂ emis-
11 sions, such as effective carbon capture and se-
12 questration technology, while maintaining the
13 competitiveness of United States exporters.

14 “(C) In coordination with the Department
15 of the Treasury, the Agency shall advocate in
16 international fora for the availability of financ-
17 ing incentives for low to net zero CO₂-emitting
18 projects, a common methodology for evaluating
19 and taking into account the social cost of car-
20 bon.

21 “(D) The Agency shall encourage export
22 credit agencies and other relevant lending insti-
23 tutions to adopt similar CO₂ policies, including
24 encouraging transparency and the involvement
25 of stakeholders.”; and

1 (3) in paragraph (7) (as so redesignated by
2 paragraph (2) of this subsection), by striking “para-
3 graph (1)” and inserting “this subsection”.

4 (c) ANNUAL REPORT TO CONGRESS.—Section 11(c)
5 of such Act (12 U.S.C. 635i–5(c)) is amended to read as
6 follows:

7 “(c) INCLUSION IN ANNUAL REPORT TO CON-
8 GRESS.—The Agency shall include in its annual report to
9 Congress under section 8 a summary of its activities under
10 subsections (a) and (b). The Board of Directors shall sub-
11 mit to the Congress a report, which shall be made publicly
12 available on the Internet at the time of delivery—

13 “(1) that provides a detailed accounting of the
14 methodology used to make greenhouse gas emissions
15 project determinations;

16 “(2) details the steps taken to ensure that the
17 Environmental and Social Due Diligence Procedures
18 and Guidelines of the Agency are consistent with—

19 “(A) reducing greenhouse gas emissions;
20 and

21 “(B) operating consistently with the multi-
22 lateral environmental agreements to which the
23 United States is a party that are directly re-
24 lated to transactions in which the Agency is in-
25 volved; and

1 “(3) details the effects of exports and projects
2 financed by the Agency on the number of jobs cre-
3 ated or retained in the energy and related tech-
4 nologies industries of the United States.”.

5 (d) FINANCING FOR RENEWABLE ENERGY, ENERGY
6 EFFICIENCY, AND ENERGY STORAGE TECHNOLOGIES.—
7 Section 2(b)(1)(K) of such Act (12 U.S.C. 635(b)(1)(K))
8 is amended by inserting “, energy efficiency (including
9 battery electric vehicles, batteries for electric vehicles, and
10 electric vehicle charging infrastructure), and energy stor-
11 age. It shall be a goal of the Bank to ensure that not
12 less than 5 percent of the applicable amount (as defined
13 in section 6(a)(2)) is made available each fiscal year for
14 the financing of renewable energy, energy efficiency (in-
15 cluding battery electric vehicles, batteries for electric vehi-
16 cles, and electric vehicle charging infrastructure), and en-
17 ergy storage technology exports” before the period.

18 (e) SENSE OF THE CONGRESS REGARDING AGENCY
19 ACCOUNTABILITY.—It is the sense of the Congress that—

20 (1) the Board of Directors of the United States
21 Export Finance Agency (in this section referred to
22 as the “Agency”) should, after a public consultation
23 process, establish a formal, transparent, and inde-
24 pendent accountability mechanism to review, inves-
25 tigate, offer independent dispute resolution to re-

1 solve, and publicly report on allegations by affected
2 parties of any failure of the Agency to follow its own
3 policies and procedures with regard to the environ-
4 mental and social impacts of projects, including im-
5 pacts on workers, and on situations where the Agen-
6 cy is alleged to have failed in ensuring the borrower
7 is fulfilling its obligations in financing agreements
8 with respect to the policies and procedures;

9 (2) the accountability mechanism should be able
10 to provide advice to management on policies, proce-
11 dures, guidelines, resources, and systems established
12 to ensure adequate review and monitoring of the en-
13 vironmental and social impacts of projects;

14 (3) in carrying out its mandate, the confiden-
15 tiality of sensitive business information should be re-
16 spected, as appropriate, and, in consultation with
17 potentially impacted communities, project sponsors,
18 Agency management, and other relevant parties, a
19 flexible process should be followed aimed primarily
20 at correcting project failures and achieving better re-
21 sults on the ground;

22 (4) the accountability mechanism should be
23 independent of the line operations of management,
24 and report its findings and recommendations directly

1 to the Board of Directors of the Agency and annu-
2 ally to the Congress;

3 (5) the annual report of the Agency should in-
4 clude a detailed accounting of the activities of the
5 accountability mechanism for the year covered by
6 the report and the remedial actions taken by the
7 Agency in response to the findings of the account-
8 ability mechanism;

9 (6) in coordination with the accountability
10 mechanism, the Agency and relevant parties should
11 engage in proactive outreach to communities im-
12 pacted or potentially impacted by Agency financing
13 and activities to provide information on the existence
14 and availability of the accountability mechanism;

15 (7) the President of the Agency should, subject
16 to the approval of the Board of Directors of the
17 Agency, and consistent with applicable law, through
18 an open and competitive process, including sollicita-
19 tion of input from relevant stakeholders, appoint a
20 director of the accountability mechanism, who would
21 be responsible for the day-to-day operations of the
22 mechanism, and a panel of not less than three ex-
23 perts, including the director, who would also serve as
24 chair of the panel; and

1 (8) the accountability mechanism director and
2 members of the panel should not have been em-
3 ployed by the Agency within the 5 years preceding
4 their appointment, and should be ineligible from fu-
5 ture employment at the Agency.

6 **SEC. 14. REINSURANCE PROGRAM.**

7 Section 51008 of the Fixing America’s Surface
8 Transportation Act (12 U.S.C. 635 note) is amended—

9 (1) in the section heading, by striking
10 **“PILOT”**;

11 (2) in subsection (a), by striking “pilot”;

12 (3) in subsection (b)(1), by striking
13 “\$1,000,000,000” and inserting “\$2,000,000,000”;
14 and

15 (4) by striking subsections (c) through (e) and
16 inserting the following:

17 “(c) **FACTORS FOR CONSIDERATION IN REINSUR-**
18 **ANCE POOLS.**—In implementing this section, the Agency
19 shall, with respect to a reinsurance pool, pursue appro-
20 priate objectives to reduce risk and costs to the Agency,
21 including by the following, to the extent practicable:

22 “(1) Ensuring a reasonable diversification of
23 risks.

1 “(2) Including larger exposures where the pos-
2 sibility of default raises overall portfolio risk for the
3 Agency.

4 “(3) Excluding transactions from the pool that
5 are covered by first-loss protection.

6 “(4) Excluding transactions from the pool that
7 are collateralized at a rate greater than standard
8 market practice.

9 “(5) Diversifying reinsurance pools by industry
10 and other appropriate factors.

11 “(6) Exploring different time periods of cov-
12 erage.

13 “(7) Exploring both excess of loss structures on
14 a per-borrower as well as an aggregate basis.

15 “(d) BIENNIAL REPORTS.—Not later than 1 year
16 after the date of the enactment of this subsection, and
17 every 2 years thereafter through 2029, the Agency shall
18 submit to the Committee on Financial Services of the
19 House of Representatives and the Committee on Banking,
20 Housing, and Urban Affairs of the Senate a written report
21 that contains an assessment of the use of the program
22 carried out under subsection (a) since the most recent re-
23 port under this subsection.

24 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to limit any authority of the Agen-

1 cy described in section 2(a)(1) of the Export-Import Bank
2 Act of 1945.”.

3 **SEC. 15. INFORMATION TECHNOLOGY SYSTEMS.**

4 Section 3(j) of the Export-Import Bank Act of 1945
5 (12 U.S.C. 635a(j)) is amended—

6 (1) in paragraph (1), by striking all that pre-
7 cedes subparagraph (A) and inserting the following:

8 “(1) IN GENERAL.—Subject to paragraphs (3)
9 and (4), the Agency may use an amount equal to
10 1.25 percent of the surplus of the Agency during fis-
11 cal years 2020 through 2029 to—”; and

12 (2) by striking paragraph (3) and inserting the
13 following:

14 “(3) LIMITATION.—The aggregate of the
15 amounts used in accordance with paragraph (1) for
16 fiscal years 2020 through 2029 shall not exceed
17 \$40,000,000.”.

18 **SEC. 16. ADMINISTRATIVELY DETERMINED PAY.**

19 Section 3 of the Export-Import Bank Act of 1945
20 (12 U.S.C. 635a), as amended by section 7(a) of this Act,
21 is amended by adding at the end the following:

22 “(o) COMPENSATION OF EMPLOYEES.—

23 “(1) RATES OF PAY.—Subject to paragraph
24 (2), the Board of Directors of the Agency, consistent
25 with standards established by the Director of the Of-

1 fice of Minority and Women Inclusion, may set and
2 adjust rates of basic pay for employees and new
3 hires of the Agency without regard to the provisions
4 of chapter 51 and subchapter III of chapter 53 of
5 title 5, United States Code, except that no employee
6 of the Agency may receive a rate of basic pay that
7 exceeds the rate for level III of the Executive Sched-
8 ule under section 5313 of such title.

9 “(2) LIMITATIONS.—The Board of Directors of
10 the Agency may not apply paragraph (1) to more
11 than 35 employees at any point in time. Nothing in
12 paragraph (1) may be construed to apply to any po-
13 sition of a confidential or policy-determining char-
14 acter that is excepted from the competitive service
15 under section 3302 of title 5, United States Code,
16 (pursuant to schedule C of subpart C of part 213 of
17 title 5 of the Code of Federal Regulations) or to any
18 position that would otherwise be subject to section
19 5311 or 5376 of title 5, United States Code.”.

20 **SEC. 17. AUTHORITY OF THE UNITED STATES EXPORT FI-**
21 **NANCE AGENCY TO USE 3 PERCENT OF ITS**
22 **PROFITS FOR ADMINISTRATIVE EXPENSES.**

23 Section 3 of the Export-Import Bank Act of 1945
24 (12 U.S.C. 635a), as amended by the preceding provisions
25 of this Act, is amended by adding at the end the following:

1 “(p) AUTHORITY TO USE PORTION OF AGENCY SUR-
2 PLUS FOR ADMINISTRATIVE EXPENSES.—

3 “(1) AUTHORITY.—

4 “(A) IN GENERAL.—Subject to paragraph
5 (2), in addition to any other amounts that the
6 Agency may use to cover administrative ex-
7 penses of the Agency, the Agency may use not
8 more than 3 percent of the surplus (as defined
9 in subsection (j)(2), without regard to subpara-
10 graph (B)(ii) of such subsection) of the Agency,
11 for each fiscal year in the 5-year period begin-
12 ning with the date of the enactment of this
13 paragraph, to cover administrative expenses of
14 the Agency.

15 “(B) USE FOR REGIONAL OFFICES.—Of
16 the amount of the surplus which may be used
17 as provided in subparagraph (A), the Agency
18 shall use at least one-third to expand or estab-
19 lish regional offices of the Agency.

20 “(2) SUBJECT TO APPROPRIATIONS.—The au-
21 thority provided by paragraph (1) may be exercised
22 only to such extent and in such amounts as are pro-
23 vided in advance in appropriations Acts.”.

1 **SEC. 18. GAO REPORT ON THE EFFECT OF AGENCY CLO-**
2 **SURE ON BUSINESSES THAT USE AGENCY**
3 **SERVICES.**

4 Within 1 year after the date of the enactment of this
5 Act, the Comptroller General shall submit to the Congress
6 a written report on the effect that closure of the United
7 States Export Finance Agency would have on businesses
8 that use services of the United States Export Finance
9 Agency.

 Passed the House of Representatives November 15,
2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 4863

AN ACT

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.